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BEFORE THE ARIZONA CORPORATION COMMISSION  
**DOCKETED**

JUN 29 2006

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY

RD

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE A  
CROSSING OF THE UNION PACIFIC  
RAILROAD AT 1-10 FRONTAGE ROAD AT INA  
ROAD, AT M.P. 974.0, IN MARANA, PIMA  
COUNTY, ARIZONA, AAR/DOT NO. 741-101-G.

DOCKET NO. RR-03639A-06-0217

DECISION NO. 68812OPINION AND ORDER

DATE OF HEARING:

May 18, 2006

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

APPEARANCES:

Mr. David Ronald, Staff Attorney, Legal Division on  
behalf of the Utilities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

On April 14, 2006, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Union Pacific Railroad Company ("Railroad") to upgrade the Railroad's crossing at the I-10 Frontage Road at Ina Road in Marana, Pima County, Arizona, at AAR/DOT No. 741-101-G ("Application").

On April 12, 2006, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On April 21, 2006, ADOT certified that notice had been provided pursuant to the terms of the Procedural Order.

On May 18, 2006, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety Section was represented by counsel. At the conclusion of the hearing, the matter was taken under advisement pending submission of a recommended Opinion and Order to the Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

#### **FINDINGS OF FACT**

1. On April 4, 2006, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad for the upgrade of a crossing to replace existing flashing lights with new cantilever LED automatic warning devices at the I-10 Frontage Road at Ina Road in Marana, Pima County, Arizona at AAR/DOT No. 741-101-G.

2. On April 21, 2006, ADOT filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on May 18, 2006.

4. The Application provides for the Railroad to install new automatic cantilever signals with new LED flashing lights at the crossing. The existing automatic gates will remain in use.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application is proper.

6. Staff has recommended that the Application be approved.

#### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Pursuant to A.R.S. §§ 40-336 and 40-337, installation of the crossing upgrade is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

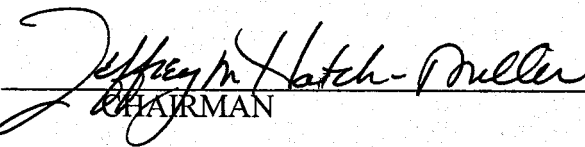
IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 29th day of June, 2006.

  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:mj

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3 DOCKET NO.:

RR-03639A-06-0217

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